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Attorneys for Plaintiffs

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS
EASTERN DIVISION

04 10008 WGY

REV. PATRICK J. MAHONEY, CHRISTIAN)

Case No.:

DEFENSE COALITION, OPERATION

APPLICATION FOR TEMPORARY
RESTRAINING ORDER AND
SUPPORTING DECLARATION

RESCUE BOSTON and OPERATION

RESCUE WEST,

Plaintiffs,

vs.

CITY OF BOSTON and MAYOR THOMAS

M. MENINO, in his Official Capacity as

Mayor of the City of Boston,

Defendants.

Plaintiffs make this Application for Temporary Restraining Order pursuant to Fed.R.Civ.P. 65, and is based on the facts set forth in the Declaration of Patrick J. Mahoney included herewith. In addition, plaintiffs file simultaneously herewith their memorandum of law in support of the temporary restraining order.

Plaintiffs hereby apply for entry of a Temporary Restraining Order wherein the defendants, their agents, servants, employees, and attorneys, and those acting in active concert

APPLICATION - 1

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1 with them be ordered to refrain from enforcing and/or utilizing the newly enacted permitting
2 process being utilized for the week of July 24 through August 1, 2004 during the Democratic
3 National Convention pending this case being heard by this Court. In the interim, it is
4 respectfully requested that the Court order these defendants to promulgate and utilize the
5 permitting process used by the National Parks Service in Washington DC relevant to the
6 Presidential Inauguration; permits are deemed granted after 24 hours.
7

8 In support of this application, plaintiffs stress that (1) the issuance of a Temporary
9 Restraining Order is necessary before a hearing on the plaintiffs Preliminary Injunction to
10 prevent irreparable harm to plaintiffs and others; (2) there is a likelihood that plaintiffs will
11 prevail on the merits of the Application for Preliminary Injunction; (3) the threatened injury to
12 plaintiffs far outweigh any possible harm a Temporary Restraining Order could conceivably
13 cause the defendants; and (4) issuing a Temporary Restraining Order will clearly serve the public
14 interest by upholding the Constitution of the United States.
15

16 Unless this Court enjoins the defendants, plaintiffs' constitutional rights will be violated
17 in that the newly enacted permitting process is an unconstitutional prior restraint on these
18 plaintiffs First Amendment rights, a violation of the First and Fourteenth Amendments to the
19 United States Constitution. Enforcement of the newly enacted permitting process will result in
20 irreparable injury and deprivation to the plaintiffs of their First and Fourteenth Amendments
21 rights guaranteed by the United States Constitution.
22

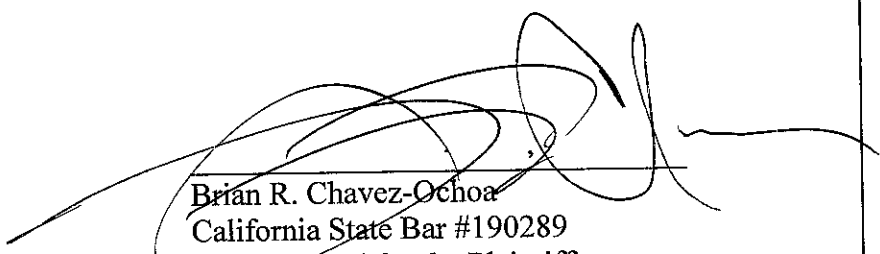
23 WHEREFORE, plaintiffs respectfully request that this Court enter a Temporary
24 Restraining Order whereby defendants are ordered to refrain from enforcing and/or utilizing the
25 newly enacted permitting process being utilized for the week of July 24 through August 1, 2004
26 during the Democratic National Convention pending this case being heard by this Court. In the
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1 interim, it is respectfully requested that the Court order these defendants to promulgate and
2 utilize the permitting process used by the National Parks Service in Washington DC relevant to
3 the Presidential Inauguration; permits are deemed granted after 24 hours. The relief sought is for
4 a period of ten days or until the issuance of a Preliminary Injunction, from the facts set forth
5 above, and that a bond be waived or nominal bond be required.
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7 Dated: May 17, 2004.

8 Respectfully submitted,

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